

AMENDED IN ASSEMBLY APRIL 23, 2003

CALIFORNIA LEGISLATURE—2003–04 REGULAR SESSION

**ASSEMBLY BILL**

**No. 141**

**Introduced by Assembly Member Cohn**

January 17, 2003

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An act to amend Section 1109 of the Evidence Code, relating to domestic violence ~~prevention~~.

LEGISLATIVE COUNSEL'S DIGEST

AB 141, as amended, Cohn. Domestic violence ~~prevention~~: ~~grant programs~~ evidence.

*Under existing law, evidence of a person's character, such as opinion or specific instances of conduct, is generally not admissible to prove a defendant's conduct on a particular occasion, with specified exceptions. Existing law provides, however, that when a defendant is accused of domestic violence in a criminal action, evidence of the defendant's prior acts of domestic violence may be admitted to prove the defendant's conduct, except as to the findings and declarations of a regulatory agency or when the acts occurred more than 10 years ago or the court exercises its discretion to exclude the evidence of prior acts, as specified.*

*This bill would expand the definition of "domestic violence" for these purposes, as specified.*

~~Under existing law, the State Department of Health Services and the Office of Criminal Justice Planning administer separate grant programs for the prevention of domestic violence.~~

~~This bill would declare the intent of the Legislature to enact legislation that would consolidate the domestic violence grant programs administered by these 2 entities.~~

Vote: majority. Appropriation: no. Fiscal committee: no.  
State-mandated local program: no.

*The people of the State of California do enact as follows:*

~~SECTION 1. It is the intent of the Legislature to enact~~

*SECTION 1. Section 1109 of the Evidence Code is amended to read:*

1109. (a) (1) Except as provided in subdivision (e) or (f), in a criminal action in which the defendant is accused of an offense involving domestic violence, evidence of the defendant's commission of other domestic violence is not made inadmissible by Section 1101 if the evidence is not inadmissible pursuant to Section 352.

(2) Except as provided in subdivision (e) or (f), in a criminal action in which the defendant is accused of an offense involving abuse of an elder or dependent adult, evidence of the defendant's commission of other abuse of an elder or dependent adult is not made inadmissible by Section 1101 if the evidence is not inadmissible pursuant to Section 352.

(b) In an action in which evidence is to be offered under this section, the people shall disclose the evidence to the defendant, including statements of witnesses or a summary of the substance of any testimony that is expected to be offered, in compliance with the provisions of Section 1054.7 of the Penal Code.

(c) This section shall not be construed to limit or preclude the admission or consideration of evidence under any other statute or case law.

(d) As used in this section, "domestic violence" has the meaning set forth in *Section 6211 of the Family Code* or Section 13700 of the Penal Code. "Abuse of an elder or a dependent adult" has the meaning set forth in Section 15610.07 of the Welfare and Institutions Code.

(e) Evidence of acts occurring more than 10 years before the charged offense is inadmissible under this section, unless the court determines that the admission of this evidence is in the interest of justice.

1 (f) Evidence of the findings and determinations of  
2 administrative agencies regulating the conduct of health facilities  
3 licensed under Section 1250 of the Health and Safety Code is  
4 inadmissible under this section.  
5 ~~legislation that would consolidate the domestic violence~~  
6 ~~prevention grant programs administered by the State Department~~  
7 ~~of Health Services, pursuant to Chapter 6 (commencing with~~  
8 ~~Section 124250) of Part 2 of Division 106 of the Health and Safety~~  
9 ~~Code, and by the Office of Criminal Justice Planning, pursuant to~~  
10 ~~Chapter 3 (commencing with Section 13820) of Title 6 of Part 4~~  
11 ~~of the Penal Code.~~

